

³ The Board notes that, following the June 28, 2020 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a right knee condition causally related to the accepted December 10, 2019 employment incident.

FACTUAL HISTORY

On December 16, 2019 appellant, then a 31-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 10, 2019 she felt her right kneecap tear as she walked carrying a bucket while in the performance of duty. She stopped work on December 10, 2019.

An employing establishment accident report form, dated December 10, 2019, indicated that appellant was transported to the hospital on that date after she felt a tear in her right knee.

In a development letter dated December 27, 2019, OWCP requested that appellant submit factual and medical information in support of her claim, included a detailed report from her attending physician explaining how the identified employment incident caused or aggravated a diagnosed condition. It afforded her 30 days to provide the requested information.

Thereafter, OWCP received a December 10, 2019 emergency department report signed by Dr. Christopher Hahn, Board-certified in emergency medicine. Dr. Hahn noted that appellant had felt a tear in her right knee while walking with a bucket at work. He indicated that a week earlier she had experienced a “pop” in her knee and that she had a history of a prior right knee injury. Dr. Hahn diagnosed acute on chronic right knee pain.

On December 11, 2019 Dr. Gregory Galano, a Board-certified orthopedic surgeon, obtained a history of appellant feeling her right knee shift after lifting mail a day or two earlier. He noted that she had experienced similar episodes in the past and had undergone a right knee arthroscopy in 2016 from which she failed to fully recover. On examination Dr. Galano found mild right knee effusion and valgus. He indicated that an earlier magnetic resonance imaging (MRI) scan had shown lateral patellar tilt and lateral chondrosis of the patellofemoral joint. He found that appellant had right knee lateral patellofemoral overload and recommended a tibial tubercle osteotomy. Dr. Galano diagnosed patellofemoral osteoarthritis of the right knee and referred her for an MRI scan. He opined that appellant was disabled from employment.

In an attending physician’s report, Part B of an authorization for examination and/or treatment (Form CA-16) dated December 11, 2019, Dr. Galano provided the history of injury as appellant feeling sudden right knee pain carrying mail. He diagnosed internal derangement of the right knee and checked a box marked “Yes” that the condition was caused or aggravated by the described employment activity. Dr. Galano noted that appellant had received monthly treatment since 2016.

An MRI scan dated December 13, 2019 showed unchanged chondral loss of the medial articular patellar facet and lateral patellar subluxation without tilt in the neutral position and small synovial effusion.

In a December 18, 2019 progress report, Dr. Galano noted that an MRI scan had shown unchanged findings. He diagnosed patellofemoral osteoarthritis and recommended surgery.

On December 31, 2019 Dr. Alexander Rances, an osteopath and Board-certified anesthesiologist, opined that appellant was totally disabled from employment for the next four weeks. In a January 15, 2020 return to work note, Dr. Galano found that she was disabled until March 23, 2020 after the December 23, 2019 surgery for unilateral primary osteoarthritis of the right knee.

The employing establishment, on January 10, 2020, controverted the claim, noting the physician on the Form CA-16 had referenced monthly treatment since 2016. It indicated that appellant had sustained a 2015 employment injury that had resolved with no continuing disability.

By decision dated January 30, 2020, OWCP denied appellant's traumatic injury claim. It found that she had not submitted sufficient medical evidence to establish that she sustained a diagnosed condition causally related to the accepted December 10, 2019 employment incident.

Subsequently, OWCP received a December 23, 2019 operative report from Dr. Galano, who performed a right knee lateral release, tibial tubercle osteotomy, and anterior compartment fasciotomy.

On February 7, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

In a telemedicine report dated May 8, 2020, Dr. Galano evaluated appellant for right knee buckling and pain following a right tibial tubercle osteotomy. He noted that she had not attended physical therapy due to financial concerns. Dr. Galano diagnosed patellofemoral osteoarthritis and found that appellant was totally disabled.

In a June 15, 2020 report of telephone call (Form CA-110), counsel advised that appellant had not appeared for the telephonic hearing. He requested a review of the written record in lieu of an oral hearing.

By decision dated July 28, 2020, OWCP's hearing representative affirmed the January 30, 2020 decision. She noted that appellant had a history of a prior right knee condition on June 4, 2015, accepted for a right knee contusion and right knee sprain under OWCP File No. xxxxxx670.⁴ Upon return to the case record, the hearing representative instructed OWCP to administratively combine the two file numbers.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,⁶ that an injury was sustained while in the performance of duty as alleged; and

⁴ The hearing representative noted that OWCP had terminated appellant's wage-loss compensation and medical benefits, effective February 28, 2018, in OWCP File No. xxxxxx670.

⁵ *Supra* note 2.

⁶ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁷ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁸

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁹ Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.¹⁰ The second component is whether the employment incident caused a personal injury.¹¹

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right knee condition causally related to the accepted December 10, 2019 employment incident.

In a December 11, 2019 Form CA-16, Dr. Galano diagnosed internal derangement of the right knee and described the history of injury as appellant feeling right knee pain while carrying mail.¹³ He checked a box marked “Yes” that the condition was caused or aggravated by the described employment activity. Dr. Galano further indicated that appellant had received treatment for her knee monthly since 2016. However, the checking of a box marked “Yes” in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.¹⁴

In a narrative report dated December 11, 2019, Dr. Galano obtained a history of appellant feeling her right knee shift after she had lifted mail a day or two earlier. He noted that she had a history of an incomplete recovery following a 2016 right knee arthroscopy. Dr. Galano diagnosed

⁷ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

⁸ *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

¹⁰ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

¹¹ *Id.*

¹² *See S.S.*, *supra* note 8; *H.B.*, Docket No. 18-0781 (issued September 5, 2018).

¹³ The Board notes that it appears that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.P.*, Docket No. 19-1904 (issued September 2, 2020); *Tracy P. Spillane*, 54 ECAB 608 (2003).

¹⁴ *P.D.*, Docket No. 18-1461 (issued July 2, 2019); *Calvin E. King*, 51 ECAB 394 (2000).

patellofemoral osteoarthritis and found that appellant was disabled from employment. While Dr. Galano provided a history of the accepted employment incident, he failed to specifically address the cause of the diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁵

The remaining medical reports fail to specifically address causation. In a December 10, 2019 report from the emergency department, Dr. Hahn obtained a history of appellant feeling a tear in her right knee walking with a bucket at work. He indicated that she had felt a "pop" in her right knee a week earlier and had a history of a right knee condition. Dr. Hahn diagnosed acute on chronic right knee pain. Again, however, he did not specifically address causation.¹⁶ Without an opinion explaining, physiologically, how the accepted employment incident caused or contributed to a diagnosed condition, Dr. Hahn's report is of limited probative value.¹⁷

In a December 18, 2019 progress report, Dr. Galano diagnosed patellofemoral osteoarthritis and advised that appellant had right knee lateral patellofemoral overload. He recommended a right knee arthroscopy. In a telemedicine report dated May 8, 2020, Dr. Galano noted that appellant was experiencing right knee pain and buckling following surgery. He diagnosed patellofemoral osteoarthritis and opined that she was totally disabled. In these reports, Dr. Galano did not reference the December 10, 2019 employment incident or address causation. Without any reference to December 10, 2019 employment incident, his report is of diminished probative value.¹⁸

On December 31, 2019 Dr. Rances found that appellant was totally disabled from work. On January 15, 2020 Dr. Galano advised that she was disabled until March 23, 2020 following surgery for unilateral primary osteoarthritis of the right knee. As these physicians failed to address causation, their opinions are of no probative value regarding the cause of the diagnosed conditions and its relationship to the accepted employment incident.¹⁹

Appellant submitted a December 23, 2019 operative report from Dr. Galano; however, he failed to address causation in the report. As noted, medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.²⁰

The record further contains a December 13, 2019 MRI scan of the right knee. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal

¹⁵ C.S., Docket No. 18-1633 (issued December 30, 2019); R.C., Docket No. 19-0376 (issued July 15, 2019).

¹⁶ *Id.*

¹⁷ M.N., Docket No. 18-1193 (issued December 28, 2018).

¹⁸ See S.T., Docket No. 17-1246 (issued November 2, 2017).

¹⁹ T.S., Docket No. 19-0717 (issued May 22, 2020); J.H., Docket No. 19-0838 (issued October 1, 2019).

²⁰ S.Y., Docket No. 20-0470 (issued July 15, 2020); F.D., Docket No. 19-0932 (issued October 3, 2019).

relationship as they do not address whether the employment incident caused a diagnosed condition.²¹ Consequently, this report is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship, the Board finds that appellant has not met her burden of proof.²²

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right knee condition causally related to the accepted December 10, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 23, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

²¹ *S.Y., id.* See *B.D.*, Docket No. 18-1735 (issued April 23, 2019).

²² See *T.J.*, Docket No 19-1339 (issued March 4, 2020); *D.N.*, Docket No. 19-0070 (issued May 10, 2019).